

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF GEORGIA
2211 UNITED STATES COURTHOUSE
75 TED TURNER DRIVE, SW
ATLANTA, GEORGIA 30303-3361

KEVIN P. WEIMER
DISTRICT COURT EXECUTIVE
AND CLERK OF COURT

DOCKETING SECTION
404-215-1655

August 19, 2022

Clerk's Office
U.S. Court of Appeals
Federal Circuit
717 Madison Place
Washington, DC 20005

U.S.D.C. No.: 1:22-cv-2297-SEG

U.S.C.A. No.: 00-00000-00

In re: Raissa Djuissi Kengne v. Georgia Power Company

Enclosed are documents regarding an appeal in this matter. Please acknowledge receipt on the enclosed copy of this letter.

Certified copies of the Notice of Appeal, Clerk's Judgment, Order and Docket Sheet appealed enclosed.

This is not the first notice of appeal. Other notices were filed on: .

There is no transcript.

The court reporter is .

There is sealed material as described below: .

Other: .

Fees paid electronically on .

Appellant has been leave to proceed *in forma pauperis*.

This is a bankruptcy appeal. The Bankruptcy Judge is .

The Magistrate Judge is .

The District Judge is Sarah E. Geraghty.

This is a **DEATH PENALTY** appeal.

Sincerely,

Kevin P. Weimer
District Court Executive
and Clerk of Court

By: P. McClam
Deputy Clerk

4months,APPEAL,CMS,SUBMDJ

U.S. District Court
Northern District of Georgia (Atlanta)
CIVIL DOCKET FOR CASE #: 1:22-cv-02297-SEG

Kengne v. Georgia Power Company
Assigned to: Judge Sarah E. Geraghty
Cause: 28:2201 Declaratory Judgment

Date Filed: 06/09/2022
Jury Demand: None
Nature of Suit: 190 Contract: Other
Jurisdiction: Federal Question

Plaintiff**Raissa Djuissi Kengne**

represented by **Raissa Djuissi Kengne**
570 Piedmont Ave NE
#55166
Atlanta, GA 30308
PRO SE

V.

Defendant**Georgia Power Company**

Date Filed	#	Page	Docket Text
06/09/2022	<u>1</u>		APPLICATION for Leave to Proceed in forma pauperis by Raissa Djuissi Kengne. (Attachments: # <u>1</u> Complaint, # <u>2</u> Notice of Filing, # <u>3</u> Civil Cover Sheet)(nmb) (Entered: 06/09/2022)
06/09/2022			Submission of <u>1</u> APPLICATION for Leave to Proceed in forma pauperis, to Magistrate Judge Catherine M. Salinas. (nmb) (Entered: 06/09/2022)
06/09/2022	<u>2</u>		STANDING ORDER REGARDING CIVIL LITIGATION. Signed by Judge Sarah E. Geraghty on 06/09/2022. (rsg) (Entered: 06/09/2022)
06/10/2022			Clerk's Certificate of Mailing as to Raissa Djuissi Kengne re <u>2</u> Order. (rsg) (Entered: 06/10/2022)
06/10/2022	<u>3</u>		COMPLAINT filed by Raissa Djuissi Kengne. (Attachments: # <u>1</u> Exhibit, # <u>2</u> Civil Cover Sheet)(rsg) Please visit our website at http://www.gand.uscourts.gov/commonly-used-forms to obtain Pretrial Instructions and Pretrial Associated Forms which includes the Consent To Proceed Before U.S. Magistrate form. (Entered: 06/10/2022)
06/10/2022	<u>4</u>		FINAL REPORT AND RECOMMENDATION re <u>3</u> Complaint, recommending that Plaintiff's complaint be DISMISSED without prejudice for lack of subject matter jurisdiction, and the case closed. Plaintiff's application to proceed IFP is DENIED. Signed by Magistrate Judge Catherine M. Salinas on 06/10/2022. (rsg) (Entered: 06/10/2022)
06/10/2022	<u>5</u>		ORDER for Service of <u>4</u> Final Report and Recommendation,, Order ruling on IFP, by Magistrate Judge Catherine M. Salinas. Each party may file written

		objections to the Report & Recommendation within 14 days of service. If no objections are filed, the Report & Recommendation may be adopted as the opinion and order of the District Court. Signed by Magistrate Judge Catherine M. Salinas on 06/10/2022. (rsg) (Entered: 06/10/2022)
06/10/2022		Clerk's Certificate of Mailing as to Raissa Djuissi Kengne re <u>4</u> Final Report and Recommendation, <u>5</u> Order for Service of Report and Recommendation. (rsg) (Entered: 06/10/2022)
06/21/2022	<u>6</u>	OBJECTIONS to <u>4</u> Report and Recommendation filed by Raissa Djuissi Kengne. (Attachments: # <u>1</u> Exhibit 1A, # <u>2</u> Exhibit IFP Form, # <u>3</u> Exhibit 1B Index, # <u>4</u> Exhibit 1, # <u>5</u> Exhibit 2, # <u>6</u> Exhibit 3, # <u>7</u> Exhibit 4, # <u>8</u> Exhibit 5)(rsg) (Entered: 06/22/2022)
06/22/2022		Submission of <u>4</u> Final Report and Recommendation, to District Judge Sarah E. Geraghty. (rsg) (Entered: 06/22/2022)
07/01/2022	<u>7</u>	MOTION for Reconsideration re <u>4</u> Final Report and Recommendation, Order ruling on IFP, by Raissa Djuissi Kengne. (Attachments: # <u>1</u> Exhibit)(rsg) (Entered: 07/05/2022)
07/05/2022	<u>8</u>	MOTION for Appeal under 1292(b) by Raissa Djuissi Kengne. (Attachments: # <u>1</u> Exhibit 1A, # <u>2</u> Exhibit 1B, # <u>3</u> Exhibit 2)(rsg) (Additional attachment(s) added on 7/12/2022: # <u>4</u> Corrected Exhibit 1A, # <u>5</u> Corrected Exhibit 1B) (bgt). (Entered: 07/06/2022)
07/12/2022		Notification of Docket Correction re <u>8</u> MOTION for Appeal under 1292(b). Added corrected pdfs for Exhibits 1A and 1B to the <u>8</u> docket entry. (bgt) (Entered: 07/12/2022)
07/26/2022		Submission of <u>7</u> MOTION for Reconsideration re <u>4</u> Final Report and Recommendation and <u>8</u> MOTION for Appeal under 1292(b) to District Judge Sarah E. Geraghty. (sap) (Entered: 07/26/2022)
08/16/2022	<u>9</u>	Response in Objection to the Report and Recommendation and Order and Notice of Continued Appeal by Raissa Djuissi Kengne (ane) (Entered: 08/17/2022)
08/17/2022	<u>10</u>	NOTICE OF APPEAL as to <u>4</u> Final Report and Recommendation, Order ruling on IFP, by Raissa Djuissi Kengne. (Attachments: # <u>1</u> USCA Appeal Fee Letter)(pjm) (Entered: 08/19/2022)
08/19/2022	<u>11</u>	USCA Appeal Transmission Letter to USCA– Federal Circuit re: <u>10</u> Notice of Appeal filed by Raissa Djuissi Kengne. (pjm) (Entered: 08/19/2022)

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

RAISSA DJUISSI KENGNE,

Plaintiff,

v.

GEORGIA POWER COMPANY,

Defendant.

CIVIL ACTION FILE

NO. 1:22-cv-02297-SEG

FINAL REPORT AND RECOMMENDATION

AND ORDER

Plaintiff, proceeding without counsel, seeks leave to file this civil action *in forma pauperis* (“IFP”), without prepayment of fees and costs or security therefor, pursuant to 28 U.S.C. § 1915(a)(1). [Doc. 1, Application]. This is the third lawsuit that Plaintiff has filed this week seeking permission to proceed IFP.¹

I. Plaintiff’s IFP Application

The affidavit of poverty submitted by Plaintiff indicates that over the past twelve months, Plaintiff has earned an average monthly income of \$7,500 from her

¹ See Case No. 1:22-cv-02237-SEG, *Raissa Djuissi Kengne v. ID.me, Inc., et al.*, and Case No. 1:22-cv-02263-SEG-CMS, *Raissa Djuissi Kengne v. AG South Farm Credit, et al.*.

employment and retirement, which amounts to \$90,000 on an annual basis. [Doc. 1 at 1–2]. Before she left her most recent employment, she was earning \$9,583.00 per month. She does not list any children or a spouse that rely on her for support. [*Id.* at 3]. She reports that she owns a condominium valued at approximately \$500,000, a land lot worth \$55,000, and an abandoned house worth approximately \$200,000. [*Id.*]. Plaintiff has estimated her total monthly expenses at approximately \$13,125.00. [*Id.* at 5].

Plaintiff's allegations of poverty are not fully supported by the record. With an annual income of approximately \$90,000, Plaintiff is well above the poverty level.² Although Plaintiff lists average monthly expenses of \$13,125.00, some of the discretionary amounts for one person seem unnecessarily high, such as \$1000 for food, \$200 for laundry and dry cleaning, and \$6000 in monthly credit card installment payments to Bank of America, Citi Bank, and American Express. [Doc. 1 at 4].

Although Plaintiff may have limited funds, and may have other priorities for those funds, I believe that she is able to pay the required \$402 filing fee and should do so if she wishes to pursue this case. For the reasons stated, I find that Plaintiff has

² See <https://aspe.hhs.gov/poverty-guidelines> (last visited June 8, 2022).

sufficient means to pay the filing fee and incur the costs of these proceedings. Thus, Plaintiff's request to proceed IFP is **DENIED**.

If Plaintiff wishes to proceed with this action, she is **ORDERED** to pay the appropriate filing fee to the Clerk within **21 days** of the date of this Order.

II. Plaintiff's Complaint

Before she does so, however, the undersigned notes, after reviewing Plaintiff's proposed complaint and request for injunctive relief and declaratory judgment, that as currently drafted, Plaintiff's complaint fails to show that this Court has subject matter jurisdiction over her claims against the defendant, Georgia Power Company. Plaintiff's complaint cites only Georgia state statutes and regulations, and her allegations chiefly pertain to a billing dispute that she, as a residential customer of Georgia Power, has with the defendant. She alleges that Georgia Power wrongfully disconnected her residential electrical service and closed her account for nonpayment. She asks this Court to order Georgia Power to permit Plaintiff to pay the past due amounts on her account using the same account number she has had for more than ten years, and to restore power to Plaintiff's home immediately, due to Georgia Power's alleged violations of local rules and regulations. She alleges that she never received a disconnection notice, but she also alleges that her condominium management

withheld her mail access during the relevant period and that the mail issue is part of a lawsuit that she has filed in the Superior Court of Fulton County. [Doc. 1-1, Compl., at 1–4]. The amounts Plaintiff alleges she is in arrears with Georgia Power total less than \$1000.

It is well-settled that a federal court is obligated to inquire into subject matter jurisdiction *sua sponte* whenever it may be lacking. *University of S. Ala. v. Am. Tobacco Co.*, 168 F.3d 405, 410 (11th Cir. 1999). It is the plaintiff's burden to demonstrate that the action is based on diversity jurisdiction, or that the action contains one or more claims arising under the Constitution, treaties or laws of the United States. 28 U.S.C. §§ 1441(a) & (b), 1331(a), 1332. In this case, the civil cover sheet that Plaintiff completed to initiate this lawsuit indicates that she is asserting federal question jurisdiction. [Doc. 1-3 at 1]. However, there are no allegations in Plaintiff's proposed complaint to support federal question jurisdiction. All statutes, rules and regulations cited by Plaintiff to support her claims against the utility company are based on state and/or local law. [*Id.*]. She has not cited any federal law or statute that would provide federal question subject matter jurisdiction over her claims.

It is also apparent that no diversity jurisdiction exists. Pursuant to 28 U.S.C. § 1332, federal district courts have original jurisdiction for all civil actions where the

amount in controversy exceeds \$75,000 and is between citizens of different states. *See id.* The pleadings and the civil cover sheet that Plaintiff completed indicate that both she and the Georgia Power Company are citizens of the State of Georgia. [Doc. 1-3 at 1]. Plaintiff's allegations also show that the amount in controversy is less than \$1000. Thus, Plaintiff's complaint fails to show that the amount in controversy exceeds \$75,000 and the action is between citizens of different states.

III. Conclusion

For the reasons stated, I **RECOMMEND** that Plaintiff's complaint be **DISMISSED without prejudice** for lack of subject matter jurisdiction, and the case closed. Plaintiff's application to proceed IFP is **DENIED**.

IT IS SO RECOMMENDED AND ORDERED, this 10th day of June, 2022.



CATHERINE M. SALINAS
UNITED STATES MAGISTRATE JUDGE

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

FILED IN CLERK'S OFFICE
U.S.D.C. - Atlanta

AUG 17 2022

KEVIN P. WEIMER, Clerk
By: *Pattie Thayer*, Deputy Clerk

RAISSA DJUISSI KENGNE,)
Plaintiff,)
) Case No.
v.) 1:22-CV-2297
ID.ME, INC.)
COGENCY GLOBAL INC.)
250 BROWNS HILL CT,)
MIDLTHIAN, VA, 23114 - 9510, USA)
)
Defendant.)

PLAINTIFF'S NOTICE OF APPEAL

NOTICE is hereby given that Plaintiff Raissa Djuissi Kengne appeals as of right to the United States Court of Appeals for the Federal

Circuit from the Report and Recommendation (“R&R”) and order of Judge Catherine M. Salinas:

- ORDER and R&R entered and filed on August 5th, 2022 to the extent that it ORDERED, that Plaintiff’s application to proceed IFP be DENIED
- ORDER and R&R entered and filed on August 5th, 2022 to the extent that it RECOMMENDED and ORDERED, that Plaintiff’s Complaint be DISMISSED without prejudice for lack of subject matter jurisdiction, and for failure to comply with a lawful order of the Court.

CERTIFICATION

Under Federal Rule of Civil Procedure 11, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary

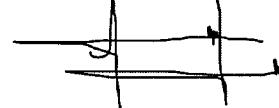
support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

I agree to provide the Clerk's Office with any changes to my address where case related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

(Signature page follows)

Dated: August 17th, 2022

Respectfully submitted,



Raissa Djuissi Kengne
Pro Se

Physical Address:
1280 W. Peachtree ST NW.,
Unit 2109
Atlanta, GA 30309
Email: cianeseaya2022@gmail.com
Telephone:(404)932-1651

Mailing Address:
570 Piedmont Ave. NE,
#55166
Atlanta, GA 30308

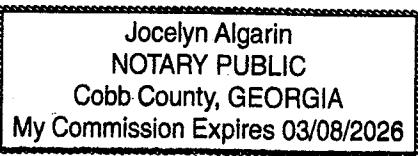
State of Georgia
County of Fulton

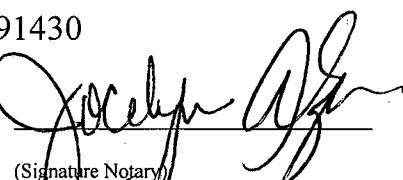
This instrument was acknowledged before me this 17th day of August (month), 2022 (year), by Raissa Djuissi Kengne (name of signer).

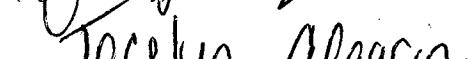
Personally Known
 Produced Identification

Type and # of ID: Driver's License # 055491430

(Seal)




(Signature Notary)


Name of Notary Typed, Stamped or Printed)

Notary Public, State of
Georgia

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

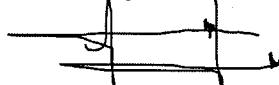
RAISSA DJUISSI KENGNE,)
Plaintiff,)
) Case No.
v.) 1:22-CV-2297
ID.ME, INC.)
COGENCY GLOBAL INC.)
250 BROWNS HILL CT,)
MIDLOTHIAN, VA, 23114 - 9510, USA)
Defendant.)

CERTIFICATE OF COMPLIANCE

I hereby certify that the foregoing document was prepared with one of the font and point selections approved by the Court in LR 5.1B: Times New Roman 14.

Dated: August 17th, 2022

Respectfully submitted,



Raissa Djuissi Kengne
Pro Se

Mailing Address:
570 Piedmont Ave. NE,
#55166
Atlanta, GA 30308
Telephone:(404)932-1651

Physical Address:
1280 W. Peachtree ST NW.,
Unit 2109
Atlanta, GA 30309
Email: cianeseya2022@gmail.com

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

RAISSA DJUISSI KENGNE,)
Plaintiff,)
) Case No.
v.) 1:22-CV-2297
ID.ME, INC.)
COGENCY GLOBAL INC.)
250 BROWNS HILL CT,)
MIDLOTHIAN, VA, 23114 - 9510, USA)
Defendant.)

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on August 17th, 2022, all counsel of record who are deemed to have consented to electronic service are being served a true and correct copy of the foregoing document using the Court's CM/ECF system, in compliance with Local

Rules, by mailing the same, certified mail with return receipt, to the address listed below.

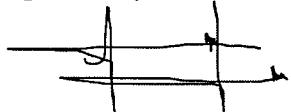
ID.ME, INC.

COGENCY GLOBAL INC.

250 BROWNS HILL CT,

MIDLOTHIAN, VA, 23114 - 9510, USA

Respectfully submitted,



Raissa Djuissi Kengne
Pro Se

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cianeseya2022@gmail.com

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
2211 UNITED STATES COURTHOUSE
75 TED TURNER DRIVE, SW
ATLANTA, GEORGIA 30303-3318
www.gand.uscourts.gov

KEVIN P. WEIMER
DISTRICT COURT EXECUTIVE
AND CLERK OF COURT

DOCKETING SECTION
404-215-1655

August 19, 2022

Raissa Djuissi Kengne
570 Piedmont Ave NE
#55166
Atlanta, GA 30308
PRO SE

**Re: Raissa Djuissi Kengne v. Georgia Power Company
Civil Action No.: 1:22-cv-2297-SEG**

Dear Raissa Djuissi Kengne:

On August 19, 2022, we received and filed your Notice of Appeal for the above case. Please be advised that we did not receive the following:

- Appeal fee \$505.00 (Docketing fee \$500.00 and Filing fee \$5.00)**
- Application to proceed on appeal in forma pauperis.**
- Please complete the attached appeal information sheet as directed.**

Sincerely,

Kevin P. Weimer
District Court Executive
and Clerk of Court

By: P. McClam
Deputy Clerk

cc: USCA